

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

JUNE 1998 SESSION

FILED

September 30, 1998

Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,

Appellant,

VS.

WILLIAM ALVIN CLEMENTS,

Appellee.

NO. 01C01-9707-CC-00247

HICKMAN COUNTY

HON. HENRY DENMARK BELL,
JUDGE

(Especially Aggravated Kidnaping
3 Counts, Spousal Rape)

FOR THE APPELLEE:

MICHAEL J. FLANAGAN
DALE M. QUILLEN
95 White Bridge Road
Suite 208
Nashville, TN 37205

FOR THE APPELLANT:

JOHN KNOX WALKUP
Attorney General and Reporter

TIMOTHY F. BEHAN
Assistant Attorney General
Cordell Hull Building, 2nd Floor
425 Fifth Avenue North
Nashville, TN 37243-0493

JOSEPH D. BAUGH, JR.
District Attorney General

RONALD DAVIS
Assistant District Attorney General
Williamson County Courthouse
Suite G-6
P.O. Box 937
Franklin, TN 37065--937

OPINION FILED: _____

DISMISSED

LEE MOORE,
SPECIAL JUDGE

OPINION

PROCEDURAL HISTORY

William Alvin Clements, Jr., was indicted by the Hickman County grand jury in November, 1992, with three (3) counts of especially aggravated kidnaping and one (1) count of spousal rape. His father, William Clements, Sr., posted a \$40,000.00 cash bond to secure his son's release. The defendant was later found guilty of the charged crimes. His father assigned \$12,500.00 of the cash bond to counsel for his son. The state filed a motion to attach the cash bond and to apply it towards an \$85,000.00 fine and court costs imposed by the court in this case. The trial court denied the motion of the state, but the state prevailed in its appeal to this Court. The Supreme Court later reversed the Court of Criminal Appeals on breach of contract grounds and reinstated the judgment of the trial court. See State v. Clements, 925 S.W.2d 224 (Tenn. 1996). On July 13, 1996, counsel for defendant in this case moved the trial court for an order directing the Hickman County Court Clerk to pay post-judgment interest on the wrongfully withheld funds in accordance with T.C.A. § 47-14-121. The trial court ordered Hickman County to pay \$13,023.30 in interest to William Clements, Sr., Dale Quillen and Michael Flanagan. The state, thereafter, filed a timely notice of appeal.

The only issue for review in this case is whether or not the trial court had authority to order Hickman County to pay interest for wrongfully withholding funds in a breach of contract dispute. During oral argument, it came to the Court's attention that the \$13,023.30 interest that was the subject of this appeal had already been paid by Hickman County while this issue was being appealed. By order filed on July 10, 1998, the trial court clerk was ordered to certify and transmit to this Court a supplemental record to include either by stipulation of counsel or by evidence that such payment had or had not been made. The clerk of the trial court

has now supplemented the record in this case to show the issuance of the following checks:

1. Check # 13684, in the amount of \$4,069.68, payable to Dale Quillen and Michael Flanagan.
2. Check # 13683, from the Hickman County Circuit Court Clerk in the amount of \$1,078.45, issued to William A. Clements, Sr.
3. Check # 07671, from the Hickman County Circuit Court Clerk in the amount of \$7,875.17, payable to the order of William A. Clements, Sr.

In addition to copies of the above-mentioned checks, the clerk also supplemented the record to include a copy of a letter dated May 13, 1997, requesting a taxpayer's conference in connection with the Circuit Judge's order.

Because of the payments mentioned above, the issue before this Court is now moot. This appeal is dismissed with costs assessed against the State of Tennessee.

LEE MOORE, SPECIAL JUDGE

CONCUR:

JOE G. RILEY, JUDGE

CURWOOD WITT, JUDGE

**IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE**

STATE OF TENNESSEE,)	
)	C.C.A. No. 01C01-9707-CC-00247
Appellee,)	
)	Hickman County No. 92-5035CR
vs.)	
)	(Especially Aggravated Kidnaping
WILLIAM ALVIN CLEMENTS,)	3 Counts, Spousal Rape
)	
)	DISMISSED
Appellant.)	

JUDGMENT

Came the appellant, William Alvin Clements, by counsel, and the state, by the Attorney General, and this case was heard on the record on appeal from the Circuit Court of Hickman County; and upon consideration thereof, this Court is of the opinion that the subject matter of this appeal is no longer at issue.

It is, therefore, ordered and adjudged by this Court that the issue in this case is now moot, and this case is dismissed.

Costs of appeal will be paid by the State of Tennessee.

Per Curiam

Lee Moore, Special Judge
Joe G. Riley, Judge
Curwood Witt, Judge